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OFFICE OF GENERAL  
COUNSEL

2008 OCT 31 A 11:40

October 30, 2008

**Via Federal Express**

Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington D.C. 20463

MUR # 6125

**Re: Tom McClintock For Congress  
4<sup>th</sup> District of California  
Formal Complaint for Violation of Federal Election Regulation  
11 C.F.R. § 110.11  
No Disclaimer on Tom McClintock's Automated Calls**

To Whom It May Concern:

This letter serves as my formal complaint to the Federal Election Commission regarding the violation of Federal Laws by Tom McClintock, and the "McClintock for Congress" campaign for the 4<sup>th</sup> District of California congressional seat. On October 22, 2008, I received an automated phone call from Tom McClintock, the Republican Party nominee for the 4<sup>th</sup> District of California congressional seat. The automated phone call was from Tom McClintock and the campaign of "McClintock for Congress," and advocated his election to the 4<sup>th</sup> District of California congressional seat. Additionally, the Tom McClintock/"McClintock for Congress" automated phone call advocated the defeat of Charlie Brown, the Democratic Party nominee for the 4<sup>th</sup> District of California congressional seat. The call from Tom McClintock/"McClintock for Congress" did not have a disclaimer, and therefore is a violation of Federal Law.

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In addition to the automated phone call I received, I know of at least two other persons who received an illegal automated call from Tom McClintock/"McClintock for Congress." Those persons are (1) Mr. Hank Raymond, a United States citizen and resident of South Lake Tahoe, California; and (2) Mr. Alan Shuttleworth, a United States citizen and resident of Colfax, California. The facts surrounding the illegal automated phone calls from Tom McClintock/"McClintock for Congress" received by Messrs. Raymond and Shuttleworth were recounted directly to me and they have provided recordings of said illegal automated calls.

**FACTS**

**a. Tom McClintock and "McClintock for Congress" Made An Illegal Automated Call to Todd Stenhouse on October 22, 2008**

On October 22 2008, an automated phone call from Tom McClintock/"McClintock for Congress" was received by the offices of "Charlie Brown for Congress." I am the campaign manager for the "Charlie Brown for Congress" campaign, and I listened to the illegal automated phone call. The automated phone call was from Tom McClintock and the campaign of "McClintock for Congress," and advocated his election to the 4<sup>th</sup> District of California congressional seat. Additionally, the Tom McClintock/"McClintock for Congress" automated phone call advocated the defeat of Charlie Brown, the Democratic

Party nominee for the 4<sup>th</sup> District of California congressional seat.

The automated phone call from Tom McClintock/"McClintock For Congress" did not have a disclaimer. The call was recorded by my answering machine, and I have enclosed a full and complete copy of the automated call with this Complaint.

b. Tom McClintock and "McClintock for Congress" Made An Illegal Automated Call to Hank Raymond on October 22, 2008

On October 22, 2008, at 5:59 p.m., Tom McClintock and "McClintock for Congress" campaign made the same automated phone call to Hank Raymond. Mr. Raymond's address is \_\_\_\_\_ South Lake Tahoe, CA, 96150, and his telephone number is \_\_\_\_\_. The automated phone call was from Tom McClintock and the campaign of "McClintock for Congress," and advocated his election to the 4th District of California congressional seat. Additionally, the Tom McClintock/"McClintock for Congress" automated phone call advocated the defeat of Charlie Brown, the Democratic Party nominee for the 4th District of California congressional seat.

The automated phone call from Tom McClintock/"McClintock For Congress" did not have a disclaimer. The call was recorded by Mr. Raymond's answering machine, and I have enclosed a full and complete copy of the automated call with this Complaint.

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c. **Tom McClintock and "McClintock for Congress" Made An Illegal**

**Automated Call to Alan Shuttleworth on October 22, 2008**

On October 22, 2008, Tom McClintock and "McClintock for Congress" campaign made the same automated phone call to Alan Shuttleworth. Mr. Shuttleworth's address is

\_\_\_\_\_, Colfax, California 95678, and his telephone number is \_\_\_\_\_)

\_\_\_\_\_ The automated phone call was from Tom McClintock and the campaign of "McClintock for Congress," and advocated his election to the 4th District of California congressional seat. Additionally, the Tom McClintock/"McClintock for Congress" automated phone call advocated the defeat of Charlie Brown, the Democratic Party nominee for the 4th District of California congressional seat.

The automated phone call from Tom McClintock/"McClintock For Congress" did not have a disclaimer. The call was recorded by Mr. Shuttleworth's answering machine, and I have enclosed a full and complete copy of the automated call with this Complaint.

**Relevant Law**

Federal Election Commission regulation 11 C.F.R. § 110.11 governs communications, advertising, and disclaimers. The regulation is clear and unequivocal: **All public communications must include disclaimers.**

As defined in Federal Election Commission regulation 11 C.F.R. § 110.11, a

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disclaimer must be presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the identity of the person or political committee that paid for, and where required, that authorized the communication.

The October 22, 2008 automated calls received by Mr. Raymond, Mr. Shuttleworth and me did not contain any disclaimer. Thus, the October 22, 2008 automated calls sent by Tom McClintock and "McClintock for Congress" violated Federal Election Commission regulation 11 C.F.R. § 110.11.

3. **Identification of Each Person, Committee or Group Who Has Committed a Violation**

As Tom McClintock identifies himself on the automated call, it is clear that Tom McClintock has committed a violation of Federal Election Commission regulation 11 C.F.R. § 110.11. Based on information and belief, the committee named "McClintock for Congress," joined in the commission of the violation of Federal Election Commission regulation 11 C.F.R. § 110.11.

**CONCLUSION**

Based on the facts and arguments above, it is clear that Tom McClintock and the "McClintock for Congress" campaign has made at least three illegal automated calls. The Federal Election Commission ("FEC") must prosecute Tom McClintock and the


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"McClintock for Congress" campaign for their flagrant violations of Federal Election law. The FEC should also investigate Tom McClintock and the "McClintock for Congress" campaign for additional violations. The FEC's actions are necessary both to enforce Federal Election law, and prevent and deter future offenses by any person who pays for or authorizes the use of illegal automated phone calls.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. If called as a witness, I could and would testify competently thereto.

Dated: October 30, 2008

  
TODD STENHOUSE  
Campaign Manager  
Charlie Brown for Congress

Notarization page attached *gmer*.

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

State of California

County of PLACER

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On 10-30-08 before me, OLUWATOYIN JAMES  
(Have insert name and title of the officer)

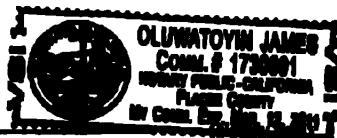
personally appeared TODD STENHOUSE

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]  
Signature of Notary Public



## ADDITIONAL OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)  
\_\_\_\_\_  
(Title or description of attached document continued)  
\_\_\_\_\_  
Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_  
(Additional information)  
\_\_\_\_\_

### CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)  
☐ Corporate Officer  
\_\_\_\_\_  
(Title)  
☒ Partner(s)  
☐ Attorney-in-Fact  
☐ Trustee(s)  
☐ Other \_\_\_\_\_

### INSTRUCTIONS FOR COMPLETING THIS FORM

*Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~ is here) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudged, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ✦ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ✦ Indicate title or type of attached document, number of pages and date.
  - ✦ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document